



March 31, 2000

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P O Box 4004
Huntsville, Texas 77342

OR2000-1259

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134119.

The Texas Department of Criminal Justice (the "department") received a request for the duty roster logs for the months of November 1999, December 1999, and January 2000. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

You contend that section 552.108 of the Government Code excepts the submitted information from required public disclosure. Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution" Subsection(b)(1) excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When section 552.108(b)(1) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986).

¹You have submitted for our review the November logs. We assume that the November logs are a "representative sample" of the records requested, and that the sample is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than those submitted to this office.

This office has on numerous occasions concluded that section 552.108 excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (holding that section 552.108 excepts detailed guidelines regarding a police department's use of force policy), 508 (1988) (holding that release of dates of prison transfer could impair security), 413 (1984) (holding that section 552.108 excepts sketch showing security measures for execution). You claim that disclosure of these requested materials "could be used to identify and exploit weaknesses in security or to create them," and that "the relationship between the staffing plan and other policies used to control the movement of inmates may [affect] . . . the success of attempts to evade agency security."

We agree that allowing the public to know how many guards are on duty and where they are positioned on a day-to-day basis would interfere with law enforcement. Although the shift rosters show how many guards were previously on duty, we believe that the disclosure of this information for three months would tend to show a pattern of staffing that would interfere with law enforcement. *Cf.* Open Records Decision No. 508 (1988) (holding that the disclosure of information relating to *past* transfers of inmates would not unduly interfere with law enforcement). Therefore, we conclude that the department may withhold the requested duty roster logs.

Because we find section 552.108(b) to be dispositive, we do not address your other argument for withholding the requested information. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/ljp

Ref: ID# 134119

Encl. Submitted documents

cc: Mr. Doylan Bibbs
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(w/o enclosures)